

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4560 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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MOHANBHAI NAGARDAS DESAI

Versus

COMMISSIONER OF POLICE

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Appearance:

MR VIJAY H PATEL for Petitioner  
Shri Kamal Mehta, AGP for the respondents

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 06/11/96

ORAL JUDGEMENT

Heard the learned counsel for the parties. By the impugned order dated 17th May 1996, the petitioner has been detained under the provisions of Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as "the PASA Act"). It is contended that simply because the petitioner is alleged to be a bootlegger, he cannot be detained under PASA Act, unless there is any material to show that his activities

are likely to adversely affect the maintenance of public order. Learned counsel placed reliance on the decision of the Supreme Court in the case of Piyush Kantilal Mehta v. Commissioner of Police, Ahmedabad City and another, A.I.R. 1989 SC 491.

2. I have perused the material on record with the assistance of the learned counsel. There is no material on the record to show that the activities of the petitioner, as a bootlegger, had adversely affected or likely to affect adversely the maintenance of public order. Thus, the order of detention cannot be upheld. In the result the Special Civil Application is allowed. The order of detention dated 17th May 1996 is quashed and set aside. It is directed that the petitioner-detenu shall be released forthwith, if he is not required in any other case. Rule is made absolute.

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